

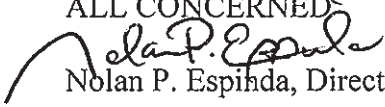
Inter-Office
MEMORANDUM

DEPARTMENT OF PUBLIC SAFETY

No. _____

Suspense: _____

January 6, 2017

TO: ALL CONCERNED
FROM:  Nolan P. Espinosa, Director
SUBJECT: **AMENDMENTS TO COR.14.15: INMATE FURLOUGH PROGRAM**

The following are the significant changes to COR.14.15, effective January 6, 2017:

- 1) Modified Section 2.0 to References and Forms and moved Definitions into a separate section, making it Section 3.0.
- 2) Increased the numbering on subsequent sections.
- 3) Added the following definitions: Custody, Escape, and Furlougee.
- 4) In Section 6.0 Guidelines, added 6.1.c, regarding areview of contracts with inmates, and increased numbering on subsequent sections.
- 5) In Section 6.2.f., inserted that inmates are not allowed on furlough until the inmate is serving in the last year of his/her sentence.
- 6) In Section 6.3.b., changed "diseases" to "communicable diseases."
- 7) Other minor grammar and formatting changes.

If you require any clarification, please contact Shelley Nobriga at 808-587-1262 or shellev.d.nobriga@hawaii.gov. COR.14.26 take effect on January 06, 2017.

	DEPARTMENT OF PUBLIC SAFETY CORRECTIONS ADMINISTRATION POLICY AND PROCEDURES	EFFECTIVE DATE: January 6, 2017	POLICY NO.: COR.14.15
		SUPERSEDES (Policy No. & Date): COR.14.15, effective 07/13/15 COR.14.15, effective 12/15/09	
	SUBJECT: INMATE FURLOUGH PROGRAM	Page 1 of 9	

1.0 PURPOSE

To delineate guidelines governing the determination of eligibility and granting of furloughs for committed inmates.

2.0 REFERENCES AND FORMS

.1 References.

- a. Department of Public Safety (PSD), Policy and Procedures (P & P), COR.02.04, Restitution Collection.
- b. PSD, P & P, COR.14.22, Electronic Monitoring Service (EMS).
- c. PSD, P & P, COR.15.06, Inmate Work and Conduct Reports.
- d. *Freudenberg v. Sakai, et al.*, 1:14-cv-00276 (D. Hawaii 9/16/14).
- e. Hawaii Revised Statutes (HRS) § 353-8, Conditional Release Centers for Committed Persons.
- f. HRS § 353-17, Committed Persons, Furlough, Employment.
- g. HRS § 353-22.5, Garnishment to Cover Non-budgeted Costs.
- h. HRS § 353-64, Committed Persons Paroled.
- i. HRS § 353C-2, Director of Public Safety; Powers and Duties.
- j. HRS § 353G-1, Conditions of Parole or Other Release from a Correctional Center or Facility.
- k. HRS § 353G-11, Escape from Residential Treatment Facility.
- l. HRS, § 710-1020, Escape in the First Degree.
- m. HRS § 710-1021, Escape in the Second Degree.
- n. *State v. Paris*, SCWC-14-0000427 (Hawaii 08/08/2016)

NOT CONFIDENTIAL

COR P & PM	SUBJECT: INMATE FURLOUGH PROGRAM	POLICY NO.: COR.14.15
		EFFECTIVE DATE: January 6, 2017
		Page 2 of 9

3.0 DEFINITIONS

- .1 Custody: A person that is detained by lawful authority during any type of furlough even if they are not physically confined.
- .2 Escape: A person who intentionally absconds/leaves/is absent from the custody of the correctional facility by various means determined by the facility. A person need not be in the physical custody of the facility or its staff, but is legally bound by the restrictions imposed by the court and/or by PSD.
- .3 Furlough: An authorized, unescorted, temporary leave of absence from the institution which is creditable toward service of sentence. It is intended to provide the select inmate with opportunities for in-community experiences with family, in social, educational, or employment settings, vocational training, and/or specialized treatment prior to parole.
- .4 Furlougee: An offender who is continuously under the care, custody, and restraint of PSD regardless of physical location, physical living quarters or assigned location on any authorized furlough pass. A person may be physically released [on a pass] from a correctional or detention facility on furlough, but is legally bound by restrictions and still deemed to be "in custody."
- .2 Pass: A written authorization that temporarily permits an individual to leave the confines of a facility and go out on furlough.

4.0 POLICY

- .1 Furlough shall be used to enhance the reintegration process for those inmates who pose a minimum risk to the community. Furlough is considered to be an important element of our correctional system and equally essential to the eventual performance of inmates after they are released to the community.
- .2 Furlough programs shall be designed to provide a systematic process of transition for inmates from institutional dependency towards economic and social self-sufficiency within the community. It is intended to minimize the inmate's alienation from family and community, provide a realistic measure of release readiness, and carefully wean the offender from being reliant on others.
- .3 Furlough is a privilege and not a right; inmates have no constitutional right or expectation to participate in a work furlough program. An inmate's ineligibility for the work furlough program and consequent ineligibility for early release does not

NOT CONFIDENTIAL

COR P & PM	SUBJECT: INMATE FURLOUGH PROGRAM	POLICY NO.: COR.14.15
		EFFECTIVE DATE: January 6, 2017
		Page 3 of 9

extend to his/her confinement or incarceration. Furlough participation shall be timed to end concurrent to the inmate's release date.

- .4 The inmate's furlough site shall be in the county where the inmate had a permanent residence, occupation or employment prior to incarceration, unless the inmate decides to reside in the City and County of Honolulu instead.

5.0 RESPONSIBILITIES

- .1 Wardens are responsible for administering and ensuring that this policy is adhered to and for establishing internal controls necessary to implement this policy. Such controls shall be subject to the approval of the Director of the Department of Public Safety (PSD) prior to the implementation of the program.

They include (but are not limited to):

- a. Overall furlough plan.
- b. Inmate eligibility criteria.
- c. Procedures for obtaining furlough approval.
- d. Notification of county prosecutors and police chiefs.
- e. Notification of victims, as required by Department Policy COR.16.05.
- f. Inmate responsibilities and rules.
- g. Facility responsibilities.
- h. Monitoring, reviewing and notification procedures.

6.0 DESCRIPTIVE PARAGRAPH

- .1 Re-socialization – designed to create, maintain, or reestablish family or community ties. It gives the offender opportunities to independently develop non-violent resolutions to complex and sometimes difficult situations when dealing with the public or in response to specific family issues or disagreements.
- .2 Community Service – designed to provide inmates the opportunity to work in the community as a form of restitution. Allows the offender an opportunity to develop

NOT CONFIDENTIAL

COR P & PM	SUBJECT: INMATE FURLOUGH PROGRAM	POLICY NO.: COR.14.15
		EFFECTIVE DATE: January 6, 2017
		Page 4 of 9

positive work habits and demonstrate readiness to transition into the work furlough program.

- .3 Day Reporting Center – designed to provide intensive community supervision for sentenced jail inmates by allowing the offender to temporarily reside at their designated place of residence. Monitoring is accomplished through their participation in treatment services when they report to the center. Allowing inmates to live in the community, gives offenders the chance to re-establish their communal ties quicker meanwhile, overcrowding in the facility is reduced by extending the limits of correctional custody.
- .4 Educational – designed to increase academic proficiency by allowing selected inmates to attend post-high school institutions. Allows the offender to participate in academic endeavors that can increase the chance for a smoother transition from institution to community while decreasing the possibility of the inmate becoming homeless.
- .5 Employment – designed to provide meaningful work experiences and the development of healthy attitudes toward work and interpersonal relationships. The intent is to promote sincere responsibility within the inmate to prepare for eventual return to the community. Allows the offender to participate in his own transitioning from institution dependency to economic and personal independence.
- .6 Training – designed to provide the inmate with special courses or “real case” training in order to improve his occupational/vocational skills. Allows the offender to assist in his own development of a marketable skill that will promote self-sustainability.
- .7 Specialized Treatment – to ensure the availability of programs in the community designed to fulfill an inmate’s need for specialized treatment. Allows the inmate to assist the inmate to enhance appropriate behaviors and attitudes when confronted with difficult situations.
- .8 Extended Furlough – designed to permit an offender to reside in the community unattended, for a prolonged period of time. Offender should be able to demonstrate their ability to be self-sustaining and financially responsible as a law-abiding citizen while on community status. Even though living in the community, extended furlough inmates again, remain in the custody and care of the Department of Public Safety.

NOT CONFIDENTIAL

COR P & PM	SUBJECT: INMATE FURLOUGH PROGRAM	POLICY NO.: COR.14.15
		EFFECTIVE DATE: January 6, 2017
		Page 5 of 9

- .9 Electronic Monitoring (EM) – utilized as a technological resource to enhance security measures and the participant’s accountability while participating in a Community Based Furlough Program. Allows the facility to closely monitor offenders who have been identified as high risk on the LSI-R Assessment instrument. Furlough inmates on Electronic Monitoring still remain in the custody and care of the Department of Public Safety.

7.0 GUIDELINES

.1 General Furlough Rules and Regulations

- a. The Director or Deputy Director for Corrections of PSD, prior to implementation, shall approve the facility Furlough **Program** Plan.
- b. Program Committee hearings shall be conducted in accordance with the Department’s Classification Policy and Procedures, COR.18.01 to COR.18.08.
- c. Community Base Administrator or Unit Manager or Case Manager will go over the contract on a **one-to-one** basis with the offender, **making sure** that he/she fully comprehends to what they are agreeing. This process will be repeated several times over the course of the Orientation Phase to ensure comprehension and retention, on the part of the offender. The Community Based Administrator or Unit Manager or Case Manager may execute the agreement and allow the offender to sign the contract **only after the Unit Manager** is confident that the case manager has repeatedly gone over the furlough contract, answered all questions and can attest to the fact that the offender fully understood the guidelines and its consequences in its entirety at the time of signing.
- d. Geographical limits of each furlough shall be **predetermined and clearly outlined** within each furlough plan. Furloughs to other islands in the State and out-of-state furloughs will require the approval of the Director of the Department (advance notification to HRS § 353-8 (c) to county/state of commitment prior to commencement of furlough).
- e. Furlough time is creditable toward service of sentence.
- f. An inmate on furlough who is found guilty of violating any term in the signed agreement shall be subject to administrative disciplinary action, including but not limited to the termination from program and/or face criminal prosecution for escape.

NOT CONFIDENTIAL

COR P & PM	SUBJECT: INMATE FURLOUGH PROGRAM	POLICY NO.: COR.14.15
		EFFECTIVE DATE: January 6, 2017
		Page 6 of 9

- g. An inmate on furlough who fails to return from an authorized furlough within thirty (30) minutes of the expiration of the furlough pass shall be processed as an escapee, and referred to law enforcement for appropriate action, unless prior approval by the Community Based Administrator or Unit Manager or Case Manager is obtained for an extension.
- h. A Warden or designated representative has the discretion to suspend or terminate furlough privileges upon violation of any term in the signed agreement, or for good government of the facility. The inmate will be give written notice as to the reason for such suspension, and shall be brought before the Adjustment and/or Program Committee for proper disciplinary action.
- i. Staff will monitor individual inmate compliance to the conditions of the furlough program.
- j. Inmates who receive regular monetary compensation as a result of work or education activities shall be required to make payment toward the satisfaction of court-ordered restitution and fines at twenty-five per cent (25%) of their net earnings, and contribute in part or in whole, toward their individual subsistence (HRS § 353-17: Committed persons, furlough employment, and HRS § 353-22.5: Garnishment to cover non-budgeted cost).

Any unauthorized monies found on or with the inmate will be summarily confiscated from an inmate's person and handled through the Facility Adjustment Committee process. Funds shall be deposited into the State General Fund only if the ownership cannot be determined. If it is proven to be rightfully the property of the inmate, the funds shall be deposited into the inmate's **restricted** account. Authorization to withdraw restricted currency shall reside with the Warden.

- k. Each furloughee will be required to searches of their body and possessions at any time as a pre-condition for furlough.

.2 Furlough Eligibility Standards

- a. The inmate is required to have "community" custody designation.
- b. The inmate must be physically, medically, and mentally capable of participating in the furlough program with consideration given to the

NOT CONFIDENTIAL

COR P & PM	SUBJECT: INMATE FURLOUGH PROGRAM	POLICY NO.: COR.14.15
		EFFECTIVE DATE: January 6, 2017
		Page 7 of 9

requirements of the Americans with Disabilities Act (ADA). The inmate shall comply with any and all medical orders and restrictions in order to be allowed to continue in the program.

- c. The inmate shall have sufficient funds to pay for any necessary expenses for furloughs.
- d. Furlough participation will be dependent upon demonstrated progress in prescribed programs, accomplishment of stated objectives and/or demonstrated capability of independent living such as employment history, financial stability, and appropriate residential arrangements in the community.
- e. Furlough is discretionary and involves a case-by-case determination and individualized assessments to determine appropriate placement in the program. Meeting the furlough eligibility criteria or previously participation in a furlough program does not guarantee future participation in a work furlough program.
- f. Mandatory minimum-sentences are imposed by the court to require a definite period of time to be served before an inmate is granted parole. That being said,

Mandatory minimum-sentenced inmates shall not be eligible for "furlough," unless the inmate is **serving the last year** of the mandatory minimum and it coincides with the inmate having only 12 months remaining on his/her minimum sentence.

All furlough programs established for mandatory minimum-sentenced inmates shall be implemented with social reintegration as the primary goal and will be generally scheduled to be completed cohesively with the end of the mandatory minimum sentence.

- g. Inmates convicted of very heinous and grave crimes, whether serving mandatory sentences or not, shall require careful and thorough individualized assessment of their potential for continuing violent behavior on a case-by-case basis. Such assessment shall include a review of pre-commitment behavior and the crime for which the inmate is incarcerated, weighed against progress demonstrated during confinement.
- h. The Program Committee may review furlough applications 6 months prior to the inmates' eligible dates; however, execution of an affirmative furlough

NOT CONFIDENTIAL

COR P & PM	SUBJECT: INMATE FURLOUGH PROGRAM	POLICY NO.: COR.14.15
		EFFECTIVE DATE: January 6, 2017
		Page 8 of 9

decision especially for **all mandatory minimum term cases** shall not commence without the approval of the Director of the Department or designated representative. The only exceptions to this requirement shall be cases where the mandatory minimums have been served in its entirety.

.3 Inmates Ineligible for Furlough

- a. Inmates with criminal detainers shall not be eligible to furlough unless the other sentence is concurrent, the jurisdiction placing the detainer concurs with the furlough plans and approval is obtained from the Director of the Department.
- b. Inmates with a communicable disease shall not be eligible for furlough. Inmates who require long term hospitalization shall also not be eligible for furlough.
- c. Inmates with pending charge(s) shall not be eligible for furlough.
- d. Inmates with consecutive sentences shall not be eligible for furlough until they are serving their final sentence.
- e. Inmates serving a sentence of life without parole shall not be eligible for furlough.

.4 All expenses of a furlough shall be the responsibility of the inmate.

.5 Each inmate on furlough shall carry an authorized identification card and furlough pass on his/her person when released on furlough. Each furloughee shall present, upon request, his/her identification card and furlough pass to any police officer or designated employee(s) of PSD.

.6 Whenever an inmate is admitted to participate in any furlough program, the Warden shall provide notification of such action to the Prosecutor and Police Chief of the county in which the inmate is to be furloughed, and the Prosecutor and Police Chief of the county in which the inmate was sentenced. This notification shall be made in writing thirty (30) days prior to the commencement of the furlough in accordance to HRS § 353-8 (c).

.7 The facility referring the inmate for furlough placement shall be the entity responsible for notifying the applicable Prosecutor(s) and Police Chief(s). In this case, the notification shall take place **at a minimum** thirty (30) days prior to the transfer.

NOT CONFIDENTIAL

COR P & PM	SUBJECT: INMATE FURLOUGH PROGRAM	POLICY NO.: COR.14.15
		EFFECTIVE DATE: January 6, 2017
		Page 9 of 9

- .8 The Warden shall acknowledge the receipt of any inquiry and/or objections made by the Prosecutor(s) and Police Chief(s) with a letter of response within a reasonable time period.

Such letter of response shall include the Warden's acknowledgement of the issues(s) raised by the Prosecutor(s) and Police Chief(s) along with the final decision made by the Warden. If the inmate was transferred to another facility to participate in the furlough program, the Warden of that facility shall be apprised of the nature and the status of the objection.

- .9 Notification of the retaking of furloughed inmates shall be in accordance with policy COR.14.01, Arrest Warrants for Furloughed Inmates.

8.0 SCOPE

This policy shall apply to all PSD correctional facilities.

APPROVAL RECOMMENDED:

Godie Masaka-Ihata January 6, 2017
Deputy Director for Corrections Date

APPROVED:

John P. Esau January 6, 2017
Director Date

NOT CONFIDENTIAL